

### REMARKS

Applicant appreciates the reopening of prosecution and withdrawal of the prior rejections as indicated in the Office Action mailed February 5, 2007 (hereinafter "Office Action"), and the indication that Claim 38 recites patentable subject matter. Applicant respectfully request reconsideration and withdrawal of the rejections of Claims 20, 21, 30-32, 34-37 and 39-42 for at least the following reasons.

Independent Claim 20 stand rejected as allegedly anticipated by U.S. Patent No. 5,561,842 to Ritter et al. ("Ritter"). Office Action, p. 3. In particular, the Office Action alleges that Ritter teaches "allocating cellular radiotelephone frequencies among said plurality of base stations according to a first frequency allocation system for a first one of said spreading codes and according to a second frequency allocation system different from said first frequency allocation system for a second one of said spreading codes (figures 4a-b, references k1-k5, col. 3, lines 44-60)." Office Action, p. 3.

Respectfully, this is not the case, as Ritter shows *code allocation among cells*, not frequency allocation among codes. As explained at column 3, lines 39-60 of Ritter, FIGs. 4a and 4b show dynamic channel allocations for a CDMA system, *i.e.*, FIGs. 4a and 4b show the same system at two different points in time. In both of these states, the system uses the *same* frequency band f1 for each of the spreading codes s1, s2, s3, . . . , s9. Therefore, Ritter does not disclose or suggest "allocating cellular radiotelephone frequencies among said plurality of base stations according to a first frequency allocation system for a first one of said spreading codes and according to a second frequency allocation system different from said first frequency allocation system for a second one of said spreading codes," as recited in Claim 20. Accordingly, Ritter does not disclose or suggest all of the recitations of Claim 20 and, for at least these reasons, Applicant submits that independent Claim 20 is patentable over Ritter.

Independent Claims 32, 36 and 39 are patentable over Ritter for at least similar reasons. In particular, Claim 32 recites:

. . . allocating frequencies for use in the plurality of cells such that respective different frequency allocations are provided for respective first and second spreading codes used in each of the cells, wherein the step of allocating frequencies for use in the plurality of cells comprises:

applying a first frequency reuse pattern for the first spreading code; and  
applying a second frequency reuse pattern for the second spreading code.

Independent Claim 36 recites:

... using the frequencies that are allocated among said plurality of base stations such that frequencies are allocated for a first one of said spreading codes according to a first frequency allocation system and are allocated for a second one of said spreading codes according to a second frequency allocation system different from said first frequency allocation system.

Independent Claim 39 recites:

... a code reuse partitioning circuit operative to allocate frequencies for use in the plurality of cells such that respective different frequency allocations are provided for respective first and second spreading codes used in each of the cells.

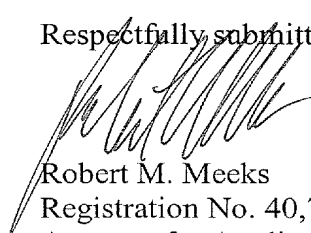
As discussed above, the system shown in FIGs. 4a and 4b of Ritter always uses the same frequency f1 for each of the spreading codes s1, s2, s3, . . . , s9. Thus, Ritter does not disclose or suggest the recitations of independent Claims 32, 36 and 39, for at least these reasons, Applicant submits that independent Claims 32, 36 and 39 are patentable over Ritter.

Applicant submits that dependent Claims 21, 30, 31, 34, 35, 37, 38 and 40-42 are patentable at least by virtue of the patentability of the respective ones of independent Claims 20, 32, 36 and 39 from which they depend. Applicant submits that several of the dependent claims are also separately patentable.

### **CONCLUSION**

Applicant submits that the present application is in condition for allowance and the same is earnestly solicited. The Examiner is encouraged to telephone the undersigned at 919-854-1400 for resolution of any outstanding issues.

Respectfully submitted,



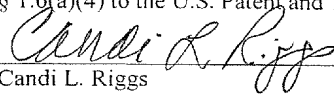
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**CERTIFICATION OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on April 23, 2007.

  
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